

1 12 NCAC 09H

2 SUBCHAPTER 9H - QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS

3 SECTION .0100 - FIREARMS QUALIFICATION CERTIFICATION PROGRAM

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9 12 NCAC 09H .0101 is proposed for adoption as follows

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11 12 NCAC 09H .0101 PURPOSE

12 The Commission hereby establishes rules to allow for the firearms qualification certification of qualified retired law  
13 enforcement officers, as defined in G.S. 14-415.10, who are authorized by federal law, Section 926C of Title 18 of  
14 the United States Code, to lawfully carry handguns concealed. These rules establish the method by which a qualified  
15 retired officer shall be tested to determine whether the officer meets the standards established by the State for  
16 training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed  
17 firearm. These rules do not apply to qualified retired law enforcement officers who complete the required training  
18 and firearms qualification with the agency from which they retired.

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20 *History Note:* Authority G.S. 17C-6; 14-415.10;14-415.25; 14-415.26

21 Eff. November 1, 2008;

1 **12 NCAC 09H .0102 is proposed for adoption as follows:**

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3 **12 NCAC 09H .0102 MINIMUM TRAINING SPECIFICATIONS**

4 (a) Each qualified retired law enforcement officer must qualify with each handgun he/she will carry in accordance  
5 with the standards outlined in 12 NCAC 09E .0105(1) and 12 NCAC 9E .0106 (a)(c)(e)(f) and (g).

6 (b) In addition to the standards set out in Rules 9E .0105 and .0106, each qualified retired law enforcement officer  
7 shall also receive a minimum of two (2) hours of instruction on the North Carolina laws of self defense and the use  
8 of force by private citizens, detention of persons by private persons, and assistance to law enforcement officers by  
9 private persons.

10 (c) Qualified retired law enforcement officers shall qualify with each handgun that will be carried concealed at least  
11 once every 12 months. For the purpose of this rule, handgun shall include semi-automatic pistols or revolvers.

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13 History Note: Authority G.S. 17C-6; 14-415.10;14-415.25; 14-415.26

14 Eff. November 1, 2008;

1 **12 NCAC 09H .0103 is proposed for adoption as follows:**

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3 **12 NCAC 09H .0103 INSTRUCTORS**

4 (a) Only instructors who hold current Specialized Instructor Certification in Firearms issued by the Criminal Justice  
5 Education and Training Standards Commission as outlined in Rules 09B .0302 and 09B .0304 may conduct the  
6 firearms qualification training as specified in Rule 9H .0102.

7 (b) Each instructor specified in 9H .0103(a) will record and retain the firearms qualification scores for each qualified  
8 retired law enforcement officer trained by the instructor for a period of five years. These scores will not be  
9 transmitted to the Criminal Justice Standards Division unless requested but must be available for inspection by  
10 Criminal Justice Standards Division representatives at reasonable times. If the instructor is conducting training on  
11 behalf of a North Carolina training institution, the institution shall maintain the records in lieu of the instructor in  
12 order to comply with this rule.

13 (c) Upon successful qualification, the instructor shall sign and date the Retired Law Enforcement Officers Firearms  
14 Qualification Certification Application Form (F-9R) attesting to the successful qualification.

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16 History Note: Authority G.S. 17C-6; 14-415.10; 14-415.25; 14-415.26  
17 Eff. November 1, 2008;

1 **12 NCAC 09H .0104 is proposed for adoption as follows:**

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3 **12 NCAC 09H.0104 SANCTIONS**

4 (a) The Commission shall summarily deny or revoke the applicant for firearms qualification certification or the  
5 qualified retired law enforcement officer's firearms qualification certification when the Commission finds the  
6 applicant or retired officer has willfully and intentionally falsified any application or documentation required for  
7 qualification certification. Any applicant or qualified retired law enforcement officer summarily denied or revoked  
8 may request an administrative hearing with the Commission subsequent to the summary denial or revocation in  
9 accordance with G.S. Chapter 150B, Article 3A.

10 (b) The Commission may deny or suspend the applicant or retired law enforcement officer's firearms qualification  
11 certification when the Commission finds the applicant or retired officer:

12 (1) has failed to successfully complete the required training or qualification specified in Rule 9H .0102; or

13 (2) is ineligible to receive and possess firearms under federal or state law.

14 (c) Before taking action, the Standards Division shall investigate the alleged violation of Rule 9H .0104(b) and  
15 present a report of its findings to the Probable Cause Committee of the Commission.

16 (d) The Probable Cause Committee shall convene prior to the next regular meeting of the Commission, and shall  
17 make a determination as to whether or not probable cause exists that the Commission's rules have been violated.

18 (e) The Probable Cause Committee may:

19 (1) direct the Standards Division to conduct a further investigation of the alleged violation;

20 (2) direct the Standards Division to conduct an administrative hearing in the matter, pursuant to 12 NCAC  
21 9A .0107 and 26 NCAC 3; or

22 (3) determine the appropriate sanctions against the violator pursuant to paragraphs (f) & (g) below.

23 (f) Denials or revocations in accordance with Rule 9H .0104(a) will be permanent. The retired officer will be  
24 ineligible to ever receive firearms qualification certification from the Commission.

25 (g) Denials or suspensions in accordance with Rule 9H .0104(b) will be:

26 (1) until the applicant or retired officer has successfully completed the required training or qualification  
27 specified in Rule 9H .0102; or

28 (2) until the applicant or retired officer is eligible to receive and possess firearms under federal or state law.

29 (h) Any applicant or qualified retired law enforcement officer who receives firearms qualification certification under  
30 these rules who becomes ineligible under any of the standards enumerated in Rule 9H .0104 has an affirmative duty  
31 to notify the Criminal Justice Commission of such disqualification within five (5) calendar days of the occurrence of  
32 the event.

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34 History Note: Authority G.S. 17C-6; 14-415.10; 14-415.25; 14-415.26

35 Eff. November 1, 2008;

1 **12 NCAC 09H .0105 is proposed for adoption as follows:**

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3 **12 NCAC 09H .0105 FILING AND FEES**

4 Each applicant for firearms qualification certification under the Qualified Retired Law Enforcement Officers  
5 Firearms Qualification Certification Program shall submit the following to the Commission:

6 (a) An original Commission-approved application form containing the applicant's notarized signature which attests  
7 that the applicant meets the definition of qualified retired law enforcement officer set forth in G.S. 14-415.10 and is  
8 eligible to possess firearms under federal and state law. The application form must also include the signature of a  
9 current Commission certified Specialized Firearms Instructor attesting that the applicant has met the training and  
10 qualification standards as specified in Rule 09H .0102 and lists the handguns with which the qualified retired officer  
11 qualified;

12 (b) A copy of the qualified retired officer's photographic identification indicating retirement status issued by the law  
13 enforcement agency from which the applicant retired; and

14 (c) A fee of fifty dollars (\$50.00) for the initial one-year qualification and a fee of twenty-five dollars (\$25.00) for  
15 the annual renewal thereafter. Applications and fees shall be submitted to:

16 Criminal Justice Standards Division  
17 North Carolina Department of Justice  
18 Post Office Drawer 149  
19 Raleigh, NC 27602

20 All fees shall be paid by certified check or money order made payable to the North Carolina Department of Justice.

21  
22 History Note: Authority G.S. 17C-6; 14-415.10; 14-415.25; 14-415.26

23 Eff. November 1, 2008;

1 **12 NCAC 09B .0301 is proposed for amendment as follows:**  
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3 **12 NCAC 09B .0301 CERTIFICATION OF INSTRUCTORS**

4 (a) Any person participating in a commission-accredited criminal justice training course or program as an instructor,  
5 teacher, professor, lecturer, or other participant making presentations to the class shall first be certified by the  
6 Commission as an instructor.

7 (b) The Commission shall certify instructors under the following categories: General Instructor Certification,  
8 Specialized Instructor Certification or Professional Lecturer Certification as outlined in Rules .0302, .0304 and  
9 .0306 of this Section. Such instructor certification shall be granted on the basis of documented qualifications of  
10 experience, education, and training in accord with the requirements of this Section and reflected on the applicant's  
11 Request for Instructor Certification Form.

12 (c) In addition to all other requirements of this Section, each instructor certified by the Commission to teach in a  
13 Commission-accredited course shall remain competent in his/her specialized areas. Such competence includes  
14 remaining current in the instructors area of expertise, which shall be demonstrated by attending and successfully  
15 completing all instructor updates issued by the Commission.

16 (d) The Standards Division may notify an applicant for instructor certification or a certified instructor that a  
17 deficiency appears to exist and attempt, in an advisory capacity, to assist the person in correcting the deficiency.

18 (e) When any person certified as an instructor by the Commission is found to have knowingly and willfully violated  
19 any provision or requirement of these Rules, the Commission may take action to correct the violation and to ensure  
20 that the violation does not recur, including:

- 21 (1) issuing an oral warning and request for compliance;
- 22 (2) issuing a written warning and request for compliance;
- 23 (3) issuing an official written reprimand;
- 24 (4) suspending the individual's certification for a specified period of time or until acceptable  
25 corrective action is taken by the individual;
- 26 (5) revoking the individual's certification.

27 (f) The Commission may deny, suspend, or revoke an instructor's certification when the Commission finds that the  
28 person:

- 29 (1) has failed to meet and maintain any of the requirements for qualification; or
- 30 (2) has failed to remain currently knowledgeable in the person's areas of expertise; or
- 31 (3) has failed to deliver training in a manner consistent with the instructor lesson plans outlined in the  
32 "Basic Instructor Training Manual" as found in 12 NCAC 09B .0209; or
- 33 (4) has failed to follow specific guidelines outlined in the "Basic Law Enforcement Training Course  
34 Management Guide" as found in 12 NCAC 09B .0205; or
- 35 (5) has demonstrated unprofessional personal conduct in the delivery of commission-mandated  
36 training; or
- 37 (6) has demonstrated instructional incompetence; or

- 1 (7) has knowingly and willfully obtained, or attempted to obtain instructor certification by deceit,  
2 fraud, or misrepresentation; or
- 3 (8) has failed to meet or maintain good moral character as defined in: re Willis, 299 N.C. 1, 215 S.E.  
4 2d 771 appeal dismissed 423 U.S. 976 (9175); State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940);  
5 in re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E.  
6 635 (1906); in re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538,  
7 308 S.E. 2d 647 (1983); and their progeny, as required to effectively discharge the duties of a  
8 criminal justice ~~instructor~~ instructor; or
- 9 (9) has failed to deliver training in a manner consistent with the Retired Law Enforcement Officers  
10 Firearms Qualification Certification Program as found in 12 NCAC 09H .0102; or
- 11 (10) has knowingly and willfully aided or attempted to aid any person in obtaining  
12 qualification/certification under the Retired Law Enforcement Officers Firearms Qualification  
13 Certification Program by deceit, fraud or misrepresentation.
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15 *History Note: Authority G.S. 17C-6;*

16 *Eff. January 1, 1981;*

17 *Amended Eff: November 1, 2008; August 1, 2004; April 1, 1999; July 1, 1991; January 1, 1985.*